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IN THE HIGH COURT OF JUDICATURE CHHATTISGARH
AT BILASPUR
W.P.NO. 215 / 2006 Single Bench

Petitioners :

1. Ram Narayan
   S/o Khaderan Sao
2. Sanjay
   S/o Ramnarayan Sao,
3. Raju
   S/o Ramnarayan Sao,
4. Rakesh
   S/o Ramnarayan Sao,
   Aged about 22 years,

All R/o Nagar Ramanujganj,
Tahsil - Pal, Dist : Sarguja-(C.G.)

P.R. No. 2185/06 Presented by Shri Arun Shukla dated 22/4/06

Versus

Respondents :

1. State of Chhattisgarh
   Through The Secretary
   Revenue Department,
   D.K.S. Bhawan, Raipur
   Dist : Raipur-(C.G.)
2. Sub Divisional Officer
   Ramanujganj,
   Dist : Sarguja-(C.G.)
3. Tehsildar Ramanujganj
   Tehsil – Pal,
   Dist : Sarguja-(C.G.)
4. Station House Officer,
   Police Station Ramanujganj
   Dist : Sarguja-(C.G.)
5. Sanjeet Kumar Gupta
   S/o Ramnarayan Sao,
   R/o Nagar Ramanujganj,
   Ward No.11,
   Dist : Sarguja-(C.G.)

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WRIT PETITION U/A 227 OF THE CONSTITUTION OF INDIA

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP No. 215/06 सन् 200

..... विरुद्ध .....

देश का क आदेश क सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

10.7.2006

Shri Arun Shukla, Advocate for the petitioners.

Shri Ashutosh Singh Kachhawaha, Govt. Advocate for the respondents No.1 to 4.

Petitioner No.1-Ram Narayan is also present in Court.

By this petition the petitioner has questioned the legality, propriety and correctness of the order dated 28.3.2006 passed by the Sub Divisional Officer (Revenue), Ramanujganj in Case No.105B-121/05-06 whereby learned Sub Divisional Officer has directed the Tehsildar, Ramanujganj & Station House Officer, Police Station Ramanujganj that respondent No.5 herein be provided help to ensure that he enters the house and they should prepare a list about the articles lying in the house.

The grievance of the petitioners is that the impugned order has been passed contrary to law. It has been mentioned in Para 5.3 of the petition that since respondent No.5 was involved in illegal activities as a result of which the atmosphere (of house) was ruined, therefore, in the interest of family, the petitioner gave Rs.24,700/- as per demand of respondent No.5 and respondent No.5 promised before the Panchayat that he will vacate the house and never return back in the parental house. Even an agreement dated 31.7.2003 to that effect was also executed. Based on the oral evidence, the SDO passed the impugned order and directed that respondent No.5 be put in the possession of the room of the house where the petitioners are residing.

I have perused the document dated 31.7.2003, which was executed between the petitioner No.1, father of respondent No.5 and respondent No.5 in

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(30)

आदेश पत्रक

मामला क्रमांक ..... WP. 215/16 ..... **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

which respondent No.5 has categorically admitted that he has taken Rs.24,700/- in lieu of vacating the house within a period of 10 months i.e. on or before 31.7.2004.

Respondent No.5 failed to appear before this Court in spite of service of notice.

When respondent No.5 himself took the money and execute the agreement on the stamp paper of Rs.30/- that he will vacate the house, therefore, it is not known that how thereafter respondent No.5 was entitled for the possession of house and moreover, under which provision learned SDO has directed the Tehsildar and Station House Officer to ensure that respondent No.5 is put in possession of the house where the petitioners are residing. If there was at all any claim of respondent No.5 claiming possession, he ought to have filed civil suit regarding declaration of right and possession and without the decision of same and declaring the agreement dated 31.7.2003 as ineffective and inoperative the impugned order passed by the SDO cannot held to be a legal order.

Therefore, the order impugned is passed without any basis of law, same is liable to be quashed and it is hereby quashed.

With the aforesaid, the petition stands disposed of.

Sd/-
L.C. Bhadoo
Judge

Roshan/-

(पीछे देखिये)